

**IN THE LABOUR COURT OF SOUTH AFRICA, GQEBERHA**

**CASE NO: P 23/2023**

Honourable Justice Lallie **ORDERED** on the 13 March 2023.

In the matter between:

**THE MEMBER OF THE EXECUTIVE COUNCIL**

**FOR THE DEPARTMENT OF EDUCATION,**

**EASTERN CAPE PROVINCE**

**Applicant**

and

**NATIONAL EDUCATION, HEALTH AND ALLIED  
WORKERS UNION**

**First Respondent**

**ALL STRIKING EMPLOYEES OF THE DEPARTMENT  
OF EDUCATION, EASTERN CAPE PROVINCE, AS WELL  
AS ANY OTHER PERSONS ACTING ON BEHALF OF  
OR UNDER THE FIRST RESPONDENT OR IN DIRECT  
OR INDIRECT SUPPORT OF THE ACTIVITIES  
SOUGHT TO BE INTERDICTED**

**Second Respondent**

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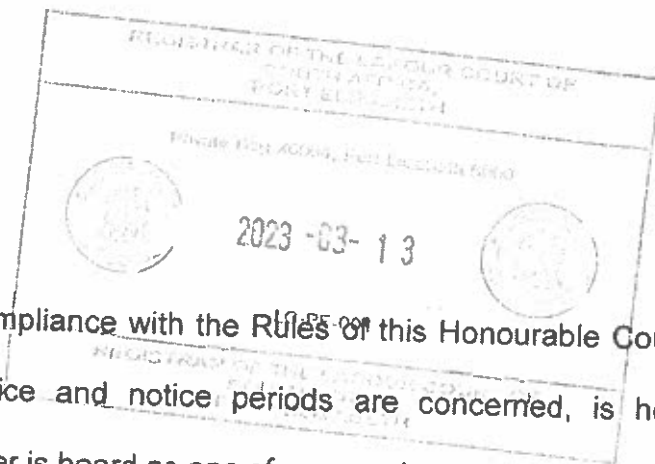
**ORDER**

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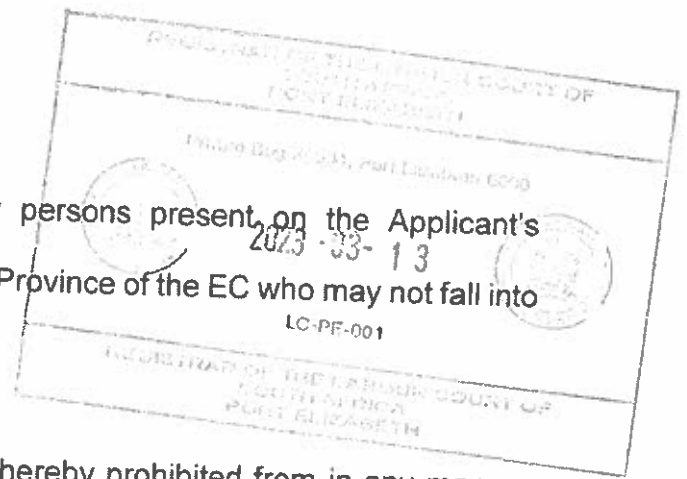
Having heard Mr. Ndamase, Counsel for the applicant and having considered the matter:

IT IS ORDERED THAT:

1. The applicant's non-compliance with the Rules of this Honourable Court, in so far as forms, service and notice periods are concerned, is hereby condoned and this matter is heard as one of urgency in terms of Rule 8 of the Rules of the above Honourable Court.
2. A *rule nisi* is hereby issued, calling upon the respondents to show cause on 25 April 2023, why an order in the following terms cannot be made final:
  - 2.1 The respondents be and are hereby prohibited from doing anything which directly or indirectly obstructs or impedes access to and from the applicant's provincial offices, district offices, circuit management centres, circuit offices, schools and any other buildings or properties of the Applicant across the Province of the Eastern Cape;
  - 2.2 The respondents be and are hereby prohibited from damaging or in any unlawful way interfering with any property belonging to the applicant, or any property situated on the applicant's premises across the Province of the Eastern Cape, whether movable or immovable and regardless of who the owner thereof may be;
  - 2.3 The respondents be and are hereby prohibited from barricading the entrances to and from buildings, premises or properties of the Applicant, assaulting, intimidating or threatening any members of staff, employees, learners, parents, contractors, visitors or officials of



the Applicant, including any persons present on the Applicant's various properties across the Province of the EC who may not fall into one of these categories;



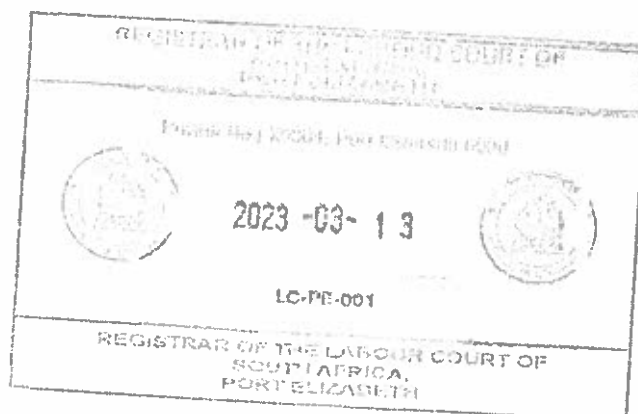
- 2.4 The respondents be and are hereby prohibited from in any manner whatsoever, inciting, touting, encouraging, instigating, prompting and/or provoking other employees, individuals or students to perform any of the acts described in paragraphs 2.1 and 2.2 hereinabove or to abandon their posts;
- 2.5 The respondents be and are hereby prohibited from coming within a radius of 200 metres from the premises of any of the applicant's facilities across the Province of the Eastern Cape, unless it is with the intention to tender their services;
- 2.6 The Sheriff of this Honourable Court and/or the South African Police Service is authorised and directed to remove and eject from the property and premises of the applicant any respondents who refuse to comply with paragraphs 2.1, 2.2, 2.3, 2.4 and 2.5 hereinabove.
- 2.7 That the costs of this application shall be paid by the First Respondent only, except if this application is opposed by any of the persons identified herein as the Second Respondents, in which case those Respondents opposing the relief sought shall be ordered to pay the costs jointly and severally together with the First Respondent herein, the one paying and the other to be absolved.

3. The relief in paragraphs 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 above shall serve as an interim interdict with immediate effect.
4. Service of this application shall be effected in the following manner:
- 4.1 By serving a copy of this order, Notice of Motion, affidavits and annexures on the First Respondent via email;
- 4.2 By keeping a copy of the Notice of Motion, affidavits and annexures as well as this order at the Administration Building of the Applicant's provincial office, district offices, circuit management centres and circuit offices, for inspection so that any Respondent who requests a copy during normal office hours may be supplied with one;
- 4.3 By the Sheriff of this Honourable Court or the members of the South African Police Service, if necessary, reading out the order, in English, by megaphone at such places and occasions on the Applicant's offices as may be deemed necessary to bring the order to the notice of the Respondents;
- 4.4 By handing a copy of this order to any Respondents who are removed or expelled from the Applicant's premises pursuant to paragraph 2.6 hereinabove.

By order of the Court

  
REGISTRAR

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**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT GQEBERHA**

**CASE NO: P23 / 2023**

In the matter between:

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**FOR THE DEPARTMENT OF EDUCATION,**

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Applicant

and

**NATIONAL EDUCATION, HEALTH AND ALLIED  
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SOUGHT TO BE INTERDICTED**

Second Respondent

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**NOTICE OF MOTION**

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**BE PLEASED TO TAKE NOTICE THAT** the Applicant intends making application to the above Honourable Court on **Monday the 13<sup>th</sup> of MARCH 2023, at 11:00**, or so soon thereafter, as this matter may be heard, for an order in the following terms:

1. That the Applicant's non-compliance with the Rules of this Honourable Court, in so far as forms, service and notice periods are concerned, be and is hereby condoned and that this matter be heard as one of urgency in terms of Rule 8 of the Rules of the above Honourable Court.
2. That a *Rule Nisi* do issue, calling upon the Respondents to show cause on 25 April 2023 why an order in the following terms cannot be made final;
  - 2.1 That the Respondents be and are hereby prohibited from doing anything which directly or indirectly obstructs or impedes access to and from the Applicant's provincial offices, district offices, circuit management centres, circuit offices, schools and any other buildings or properties of the Applicant across the Province of the Eastern Cape;
  - 2.2 That the Respondents be and hereby prohibited from damaging or in any unlawful way interfering with any property belonging to the Applicant, or any property situated on the Applicant's premises across the Province of the Eastern Cape, whether movable or immovable and regardless of who the owner thereof may be;
  - 2.3 That the Respondents be and are hereby prohibited from barricading the entrances to and from buildings, premises or properties of the Applicant, assaulting, intimidating or threatening any members of staff, employees, learners, parents, contractors, visitors or officials of the Applicant, including any persons present

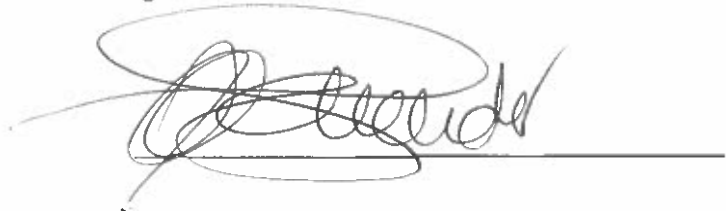
on the Applicant's various properties across the Province of the EC who may not fall into one of these categories;

- 2.4 That the Respondents be and are hereby prohibited from in any manner whatsoever inciting, touting, encouraging, instigating, prompting and/or provoking other employees, individuals or students to perform any of the acts described in paragraphs 2.1, 2.2 and 2.3 hereinabove or to abandon their posts;
- 2.5 That the Respondents be and are hereby prohibited from coming within a radius of 200 metres from the premises any of the Applicant's properties or premises across the Province of the Eastern Cape, unless it is with the intention to tender their services;
- 2.6 That the Sheriff of this Honourable Court and/or the South African Police Service is authorised and directed to remove and expel from the property and premises of the Applicant any Respondents who refuse to comply with paragraphs 2.1, 2.2, 2.3, 2.4 and 2.5 hereinabove.
- 2.7 That the costs of this application shall be paid by the First Respondent only, except if this application is opposed by any of the persons identified herein as the Second Respondents, in which case those Respondents opposing the relief sought shall be ordered to pay the costs jointly and severally together with the First Respondent herein, the one paying and the other to be absolved.

3. The relief in paragraphs 2.1, 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7 above shall serve as an interim interdict with immediate effect.
4. Service of this application shall be effected in the following manner:
  - 4.1 By serving a copy of this order, Notice of Motion, affidavits and annexures on the First Respondent via email;
  - 4.2 By keeping a copy of the Notice of Motion, affidavits and annexures as well as this order at the Administration Building of the Applicant's provincial office, district offices, circuit management centres and circuit offices, for inspection so that any Respondent who requests a copy during normal office hours may be supplied with one;
  - 4.3 By the Sheriff of this Honourable Court or the members of the South African Police Service, if necessary, reading out the order, in English, by megaphone at such places and occasions on the Applicant's offices as may be deemed necessary to bring the order to the notice of the Respondents;
  - 4.4 By handing a copy of this order to any Respondents who are removed or expelled from the Applicant's premises pursuant to paragraph 2.6 hereinabove.

**DATED AT GQEBERHA on this 10th of MARCH 2023.**



**STATE ATTORNEY**

Attorneys for the Applicant

29 Western Road

Central

GQEBERHA

Tel: 041 – 585 7921

Fax: 041 – 585 2687

Ref. Ms Govender

**TO: REGISTRAR**  
LABOUR COURT  
GQEBERHA

**AND TO: NATIONAL HEALTH EDUCATION AND ALLIED  
WORKERS UNION (NEHAWU)**

First Respondent

No 10 St James Road

Southernwood

EAST LONDON

Tel: 043 743 2876

REF: Mr Matu

**BY EMAIL TO:**[phumzilem@nehawu.org.za](mailto:phumzilem@nehawu.org.za)[mlungiseleli@nehawu.org.za](mailto:mlungiseleli@nehawu.org.za)[samkelo@nehawu.org.za](mailto:samkelo@nehawu.org.za)

**AND TO: ALL STRIKING EMPLOYEES OF THE DEPARTMENT  
OF EDUCATION, EASTERN CAPE PROVINCE, AS WELL  
AS ANY OTHER PERSONS ACTING ON BEHALF OF**

**OR UNDER THE FIRST RESPONDENT OR IN DIRECT  
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Second Respondent

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**FOUNDING AFFIDAVIT**

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I, the undersigned,

**MAHLUBANDILE QWASE**

do hereby make oath and state:

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1. I am a major male, currently employed as the Acting Head of Department ("HOD") of the Department of Education in the Province of the Eastern Cape ("the Applicant" herein) and his address is as follows: Steve Vukile Tshwethe Complex, Zone 6, Zwelitsha, King William's Town.
2. The facts deposed to herein under all fall within my personal knowledge, and are apparent from documents that I have perused, and are both true and correct, unless the contrary is indicated from the context.
3. I am duly authorised to depose to this application and to pilot this application on behalf of the Applicant herein in my capacity as Head of Department.
4. Where I make submissions of a legal nature, I do so on the strength of legal advice obtained from the Applicant's legal representatives, which advice I believe to be true and correct and on which I so rely.
5. Where I rely on evidence obtained from other persons, I have no reason to believe that such information was inaccurately presented to me and, as such, I believe it to be both true and correct.
6. Due to the urgent nature of this matter, these papers have been prepared with extreme haste. In this regard, I hereby seek leave of this Honourable Court to supplement these papers should the need to do so arise.



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**THE PARTIES:**

7. The Applicant herein is **THE MEMBER OF THE EXECUTIVE COUNCIL FOR THE DEPARTMENT OF EDUCATION, EASTERN CAPE PROVINCE**, [who is cited herein in his official capacity as the political head of the Department of Education, Eastern Cape Province], and whose service address for the purposes of this application is the Office of the State Attorney, No. 29 Western Road, Central, Gqeberha.
8. The First Respondent herein is **THE NATIONAL EDUCATION, HEALTH AND ALLIED WORKERS UNION ("NEHAWU")**, a trade union registered in terms of the laws of the Republic of South Africa and with a registered place of business at No.10 St James Road, Southernwood, East London.
9. The Second Respondent is **ALL STRIKING EMPLOYEES OF THE DEPARTMENT OF EDUCATION, EASTERN CAPE PROVINCE, AS WELL AS ANY OTHER PERSONS ACTING ON BEHALF OF OR UNDER THE FIRST RESPONDENT OR IN DIRECT OR INDIRECT SUPPORT OF THE ACTIVITIES SOUGHT TO BE INTERDICTED.**
10. As will be explained below, the striking employees mainly appear to be employees of the Applicant herein who are members of the First Respondent, but could also include other individuals not formally affiliated to the First Respondent.

A.K

11. It is necessary to cite the Second Respondent in this general and vague manner because it is neither possible nor practical to prepare a definitive list of those persons involved.
12. In light of the nature of the relief sought and the fact that no cost order is sort against any person falling within the definition of the Second Respondent unless they oppose the matter, I respectfully submit that the broad citation holds no prejudice.

**NATURE OF THIS APPLICATION:**

13. In this application, the Applicant seeks an Order as set out in paragraphs 1 to 5 of the notice of motion to which this affidavit is attached.
14. It is apposite to state that the primary objective of this application is to prohibit the violent, unlawful and disruptive conduct of the Respondents herein which prejudices the provision of service delivery by employees of the Applicant who are not on strike and which, in turn, has severely-prejudicial consequences in the provision of quality education to learners across the Province of the Eastern Cape.

**FACTUAL BACKGROUND:**

15. The First Respondent herein has members affiliated to it and who are mostly employed in the public sector, in various government departments nationwide, including employees of the Department of Education in the Province of the Eastern Cape.

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16. On 23 February 2022, the General Secretary of the First Respondent herein, Mr Zola Saphetha, issued a notice for a strike action in terms of section 64(1)(D) of the LRA on behalf of the First Respondent herein and its members. In the said notice, which was addressed to the Department of Public Service and Administration, the First Respondent gave a seven (7) day to all Director Generals and Heads of Departments across all Departments and Provinces (including SASSA, SIU and SANBI), for their intended strike action.
17. The notice further states that members of the First Respondent throughout the country would begin the strike action at 06h00 on 6 March 2023 and that the strike would continue up until the demands of the First Respondent herein and its members were met.
18. A copy of the said strike notice is attached hereto and marked "MQ1".
19. On or about 4 March 2023, the Minister for the Public Service and Administration and the Department of Public Service and Administration approached this Honourable Court on an urgent basis seeking an Order setting aside the aforementioned strike notice as well as to interdict the strike action intended to commence at 6h00 on Monday, 6 March 2023 and also to interdict members of the First Respondent herein, who are employed by the Department of Public Service and Administration, from commencing with or participating in the intended strike action.

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20. The said application was heard on Saturday, 4 March 2023, on an urgent basis, before the Honourable Justice Tlhotlhemaje.
21. On that same date, this court issued an order setting aside the strike notice issued by the First Respondent on 23 February 2023 as well as interdicting the intended strike action, picket, or any other form of industrial action that is planned by the First Respondent and further interdicting members of the First Respondent employed the Department of Public Service and Administration from commencing with or participating in a strike or strike action.
22. A copy of the said Order is attached hereto and marked "MQ2".
23. I pause to mention that, as is apparent from the abovementioned Order of 4 March 2023, no reasons were furnished by the Honourable Justice Tlhotlhemaje. In all probability, the reason for this was due to the urgency of the matter. I am advised that in such circumstances, this Honourable Court usually provides its reasons for judgment within a short period of time after having issued an Order on an urgent basis like the one of 4 March 2023.
24. However, and notwithstanding the fact that no reasons were provided by this Honourable Court for the aforementioned Order, I am advised that on Sunday, 5 March 2023, the First Respondent herein served a Notice of Applicant for Leave to Appeal against the said Order.



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25. In this regard, I am further advised that, in terms of section 18(1) of the Supreme Courts Act, Act 10 of 2013, the operation and execution of a decision which is the subject of an application for leave to appeal or of an appeal is suspended pending the decision of the application or appeal.
26. As such, I am advised that the service of the Notice of Application for Leave to Appeal against the Order of 4 March 2023 by the First Respondent herein had the effect of suspending the operation and execution of the Order of 4 March 2023.
27. I am advised further that, because of the effect of the service by the First Respondent herein of a Notice of Application for Leave to Appeal (i.e. – the suspension of the Court Order of 4 March 2023), the Minister for the Department of Public Service and Administration, once again, approached this Honourable Court on an urgent basis on 6 March 2023 to seek an order in terms of section 18(3) of the Superior Courts Act, granting them leave to execute the Order of 4 March 2023.
28. In this regard, I am advised further that in terms of section 18(3) of the Superior Courts Act, this court may grant an order that the decision which is the decision of an application for leave to appeal or appeal be not suspended if the applicant proves on a balance of probabilities that he or she will suffer irreparable harm if the court does not so order and that the other party will not suffer irreparable harm if the court so orders.



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29. I am advised that the said application was heard on the same date (6 March 2023), after which this Honourable Court, in a judgment by the Honourable Justice Van Niekerk issued on the very same day, granted the Order in terms of section 18 of the Superior Courts Act, as sought.
30. A copy of the judgment of this Honourable Court of 6 March 2023 is attached hereto and marked "MQ3".
31. I am advised further that the effect of the judgment of 6 March 2023 is that, notwithstanding the delivery of the Notice of Application for Leave to Appeal by the First Respondent herein, the Order granted by the Honourable Justice Tlhotlhemaje on 4 March 2023 remained operational, which meant that the First Respondent herein as well as its members are still interdicted from taking part in the strike action that was meant to commence on 6 March 2023.
32. However, I am made to understand that on 7 March 2023, the First Respondent filed a Notice of Appeal in terms of Section 18(4)(ii) of the Superior Courts Act against the judgment of 6 March 2023 by Van Niekerk J to the Labour Appeal Court. In this regard, I am advised that the said leave to appeal application was to be heard on Friday 10 March 2023.
33. In the meantime, members of the First Respondent, including those who are employees of the Applicant herein, in various provinces across the country, engaged in a violent strike action at various offices of the Applicant,



including the Provincial Office, District Offices, Circuit Management Centres and Circuit Offices.

34. However, in this affidavit, I propose to deal only with events that occurred within the Province of the Eastern Cape and only insofar as they relate to the employees of the Department of Education, Eastern Cape Province.
35. As aforementioned, there is a possibility that there are also other employees of the Applicant who are not necessarily members of the First Respondent, but have joined forces with the First Respondent and support the violent strike action. Due to the urgency of this matter, it is not possible to identify all of the said persons by name, hence they are cited generally as all other striking employees of the Applicant.
36. The said strike action is characterized by the assault, intimidation of, and threats made to, other employees of the Applicant who are not part of the strike action as well as the blocking of access to and from various offices of the Applicant as well as in some schools and also by the removal of employees of the Applicant from their offices by force.
37. My office has received reports from various Districts of the Department of Education in the Eastern Cape Province detailing incidents of violence, threats and intimidation of employees of the Applicant by the striking workers and which conduct has severely hampered service delivery of quality education in the said Districts.

  
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38. By way of illustration, these are some of the incidents that have, as at the time this affidavit was prepared, been reported to me by District Directors in various Districts of the Applicant across the Province of the Eastern Cape:

38.1 On 8 March 2023, and in different schools in the Mount Ayliff area in the Alfred Nzo District, it is reported that a group of members of the First Respondent herein arrived at different schools and demanded that all educators and support staff must leave the school premises, notwithstanding that it was still during school time when they arrived. In some schools, members of the First Respondent went inside classrooms carrying sticks and placards and, in the process, intimidated young learners when they chased teachers out of the classrooms and school premises calling them cowards.

38.2 The incidents were repeated by members of the First Respondent on 9 March 2023, but is reported that, on the said date, members of the First Respondent were more violent and aggressive than they had been the previous day as they were claiming that their demands for schooling activities to be suspended had not been complied with. Once again, educators were instructed to leave their classrooms and school premises and not to come to work on the next day, or, failing which, they were threatened that they would suffer the consequences.

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38.3 I respectfully refer this Honourable Court to a copy of a report from Ms M G Mbangeni, District Director of the Alfred Nzo West District and which is attached hereto marked "MQ4".

39. I further received a report from the District Director of the Amathole East District detailing incidents that have occurred as from Monday, 6 March 2023, up to Thursday, 9 March 2023. In summary, the report states, *inter alia*, that:

39.1 On Monday, 6 March 2023, as soon as employees of the Applicant arrived at work and signed attendance registers, a number of members of the First Respondent and/or their supports held a meeting after which they started to march along the corridors and around the precincts of the District Office. Management requested a meeting with the leadership of members of the First Respondent to get a sense of what was unfolding and also to find one another on picketing rules but I am advised that all of those efforts were in vain;

39.2 On 7 March 2023, members of the First Respondent and/or their supports repeated their actions of the previous day, this after they had firstly converged in the boardroom;

39.3 On 8 March 2023, once again, a number of members of the First Respondent and/or their supports embarked on the same action of the two previous days. The also entered some offices and started

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to sing inside offices. At the Idutywa Circuit Management Centre, the main gate was closed leaving only a small gate open and visitors and other workers were only able to get access through the small gate;

39.4 On Thursday, 9 March 2023, the actions of the three previous days continued by members of the First Respondent and/or their supports. On this date, they disrupted workshops and forcibly compelled participants in the said workshops as well as employees in some offices across the District to leave the premises of the Applicant;

39.5 The above Honourable Court is respectfully referred to a copy of the said report by the District Director from the Amathole East District, which is attached hereto and marked "MQ5".

40. I further received the following report from the Acting District Director of the O R Tambo Coastal District, Dr B B Peyana:

40.1 That the current strike action by members of the First Respondent has severely hampered service delivery in the O R Tambo District, that it has been generally characterised by intimidation and harassment, with employees being forcefully prevented from accessing their workplaces or being chased out of their offices by mobs chanting and singing;

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- 40.2 On 6 March 2023, a group of people who were singing and wearing t-shirts of the First Respondent, and carrying placards, entered the K D Matanzima Building in Mthatha where some of the offices of the Applicant herein are located. They banged on doors, ordering everyone out, damaged computers and scattered documents on the floor. Fortunately employees of the Applicant managed to escape unharmed on the said date;
- 40.3 From 6 to 9 March 2023, the same group of people were singing, carrying shamboks and iron rods at the gates of K D Matanzima Building, preventing employees from entering the building, shouting at and harassing any person trying to gain entry into the building;
- 40.4 At the Lusikisiki College of Education, a group of people singing and wearing t-shirts of the First Respondent and carrying placards gained entry into one block of offices of the Applicant on 6 March 2023 and instructed employees of the Applicant to leave the premises;
- 40.5 On 9 March 2023, two big padlocks were put at the gates of the said building in Lusikisiki by the same group of persons wearing t-shirts of the First Respondent, to prevent any employee from gaining entrance into the premises where the Applicant's offices are located;



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40.6 As a result, services in various offices of the Applicant in the said District are reported to have come to a complete halt and the safety of the employees of the Applicant, clients and property has been put at risk by the persons perpetrating the acts of violence and intimidation as aforesaid;

40.7 A copy of the said report by the Acting District Director of the O R Tambo Coastal District is attached hereto and marked "MQ6".

41. Further to the above, I have received a report from the District Director of the O R Tambo Inland District, in which a report of incidents that have taken place as from 6 March 2023 is provided as follows:

41.1 The strike by members of the First Respondent and/or their supporters started on Monday, 6 March 2023 and, as from the said date, the offices of the O R Tambo Inland District which are situated at the Bota Sigcau Building were inaccessible as members of the First Respondent blocked the entrance;

41.2 As from Monday, 6 March 2023, employees of the Applicant that are not taking part in the strike have stood outside the building and have been subjected to daily intimidation by the group of employees who are participating in the strike action;

41.3 The Mthatha Central and Mthatha West Circuit Management Centres, which are also situated in the same building referred to hereinabove, have been equally affected by the strike;

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- 41.4 The Mqanduli Circuit Management Centre was operational only from Monday, 6 March up to Thursday, 9 March 2023, on which latter date the striking workers, members of the First Respondent herein and/or their supporters, chased employees of the Applicant out of their offices and even used pepper spray on them to force them to leave their work stations;
- 41.5 At the Tsolo Circuit Management Centre, members of the First Respondent entered the premises, threw stones and broke some windows at the said offices, opened fire extinguishers and sprayed them onto some employees of the Applicant inside the offices. They assaulted a security guard at the gates and this incident was reported at the local police station;
- 41.6 A copy of the said report by the District Director of the O R Tambo Inland District is attached hereto and marked "MQ7".
42. I have also received reports of similar incidents from the District Director of the Sarah Baartman District in which I was advised that:
- 42.1 On 8 March 2023, members arrived at the Makhanda Circuit Management Centre and demanded to see management. They then demanded that all employees must leave the offices;
- 42.2 As a result, the said office was not operating on 9 March 2023 as officials who are not affiliated to the First Respondent and/or who are not part of the strike felt intimidated;

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- 42.3 On 8 and 9 March 2023, a group of members of the First Respondent came to the offices of the Applicant at the Graaf-Reinet Circuit Management Centre and told employees to leave and, as such, the said office is closed as staff members fear for their safety;
- 42.4 A copy of the report by the District Director of the Sarah Baartman Region is attached hereto and marked "**MQ8**".
43. I also received a report from the District Director of the Buffalo City Metro Education District which advised me that:
- 43.1 On 6 March 2023, the strike by members of the First Respondent and/or their supports ensued and on which date non-striking employees were chased from their offices, doors banged and, as a result, employees of the Applicant who were not part of the strike had to leave the offices for their safety;
- 43.2 On Tuesday, 7 March 2023, the striking members of the First Respondent gathered at the main entrance of the District Office in Buffalo City Metro and started to sing revolutionary songs. They charged to various offices including the office of the District Director in which they sang derogatory songs, danced on the table and insisted that the District Director must leave;
- 43.3 As a result, the District Office was closed and there are reports that the striking members of the First Respondent also disrupted a training programme that took place at Mandla Makupula Education

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Institute in East London, whereat the said members of the First Respondent were even dancing on fragile tables;

43.4 Similar incidents were reported by the Head of the Circuit Management Centre at King William's Town whereat operations of the Applicant's employees were disrupted by the striking members of the First Respondent and/or their supporters;

43.5 As a result of the said strike action as well as the intimidatory conduct by members of the First Respondent, an accountability session that was planned to take place on 10 March 2023 had to be cancelled as employees of the Applicant who were to attend the said session feared for their safety;

43.6 It is further reported that the strike by members of the First Respondent and/or their supporters has disrupted the continuity of business of the Applicant and will result in unprecedented repercussions to the processing as well as payment of employee benefits;

43.7 Furthermore, the appointment of interns in the Presidential Youth Employment Initiative has been halted which will cause further delays in the processing of the payment of their salaries and thus resulting in accruals;

43.8 A copy of the said report by the District Director in the Buffalo City Metro District is attached hereto and marked "MQ9".

44. Further to the above incidents and reports from various District Directors, the following incidents have also been brought to my attention:

- 44.1 In Gqeberha, the Deputy Director of Human Resources was assaulted by the members of the First Respondent and/or their supporters who are on strike to such an extent that she sustained injuries and had to receive medical treatment. A case of assault was opened at a local police station in connection with this incident;
- 44.2 At the Mandla Makupula Institute in East London, a workshop of shop stewards from different trade unions from across the Province of the Eastern Cape, which also included departmental officials as well as facilitators from outside the employ of the Applicant, was disrupted by members of the First Respondent and/or their supports.
- 44.3 Members of the First Respondent had a confrontation with a member of another trade union that is not participating in the strike and, during the said altercation, members of the First Respondent sprayed the said member of a different trade union with the contents of a fire extinguisher, after which pictures of the said member were taken and published on social media and the said official was called with the derogatory name of "*umkhovu*" (which is loosely translated into "*Zombie*");

- 44.4 It is my understanding that the said official also laid criminal charges with the police;
- 44.5 We have also received reports that various arbitration proceedings which were scheduled to take place and which involve certain employees of the Applicant were disrupted by the striking members of the First Respondent and Commissioners and participants in those proceedings were chased away;
- 44.6 Furthermore, at the Head Offices of the Applicant in Zwelitsha, King William's Town, a female manager was harassed by the striking members of the First Respondent and/or their supporters. During such incident, the said manager was threatened and humiliated by the said striking employees.

**THE INTERIM INTERDICT:**

45. I am advised that in order to obtain the relief sought by the Applicant herein, I must satisfy this Honourable Court that: (i) the Applicant herein has a *prima facie* right to the relief he seeks; (ii) that there is a well-grounded apprehension of irreparable harm if the relief is not granted; (iii) that the balance of convenience favours the granting of the interim relief and that (iv) there is no satisfactory alternative remedy available to the Applicant.
46. In what follows herein under I deal with each of the abovementioned requirements.

(i) **Prima Facie Right:**

47. As aforementioned, the Applicant herein is the Member of the Executive Council for the Department of Education in the Province of the Eastern Cape. As such, he is the political head of the Department and his primary responsibility is to ensure that the provision of quality education in the Eastern Cape is carried out without any disruptions.


48. Section 29 of the Constitution guarantees everyone the right to basic, including adult basic education and further education which the State, through reasonable measures, must make progressively available and accessible.

49. The conduct of the striking employees, who are mostly members of the First Respondent and/or their supporters, is causing major disruptions to the provision of services which enhance access to education by learners in the Eastern Cape Province and is thus causing an infringement to the rights enshrined in section 29 of the Constitution.

50. As such, it is my respectful submission that the Applicant herein does have a *prima facie* right to approach this Honourable Court as it hereby does in this application.

(ii) **A well-grounded apprehension of Irreparable harm:**

51. From what is set out hereinabove, I respectfully submit that it is clear that the Applicant herein is unable to fulfil his constitutional obligations, being,

MDQ 

*inter alia*, the supply of services to enhance the provision of quality education to learners of the Eastern Cape Province, as a result of the conduct of the striking employees.

52. Essentially what has happened is that the entire administration of the Eastern Cape Department of Education has been shut down by the errant striking employees. What this means is that fundamental tasks such as the appointment of Educators and the provision of basic assistance to schools cannot be undertaken, cannot be performed. All programmes being run by the District Offices have to be cancelled or postponed at great expense to the taxpayer and at great prejudice to both Educators and Learners.
53. By way of example, a workshop for shop stewards of various trade unions that was meant to take place at the Mandla Makupula for three (3) days, 8 March, 9 March and 10 March 2023 Institute in East London was disrupted by the striking workers. Expenses have already been incurred by the Department of Education, Eastern Cape, for hotel accommodation and meals for the various officials attending the said workshop.
54. Because the workshop can no longer carry on, it means that all those expenses will result in fruitless and wasteful expenditure, as a direct result of the conduct of the members of the First Respondent and/or their supporters.

55. As aforementioned, the strike by members of the First Respondent and/or their supporters has, in some instances, turned violent in that certain employees of the Applicant have been assaulted and sustained injuries and there have also been threats of violence made against non-striking employees and officials of the Applicant herein. As such, it is my humble submission that employees of the Applicant who have no desire to participate in the strike but to continue with their day to day services are highly likely to suffer harm at the hands of the striking employees.

56. Furthermore, and as adumbrated hereinabove, there have already been disruptions in various schools, especially in the Alfred Nzo West District. For that reason, there is no telling as to when these incidents if threats and intimidation of educators, support staff and including learners will spread to schools across the Province, thus causing a violation to section 29 of the Constitution.

(iii) **Balance of convenience:**

57. I respectfully submit that the balance of convenience favours the granting of the interim relief herein as the Applicant herein stands to suffer irreparable harm unless the relief sought in the Notice of Motion is granted.

58. This is because, as aforementioned, the Applicant will have failed to deliver on his constitutional obligations to ensure that there is undisrupted supply of much-needed education services to the entire Province of the Eastern Cape.



59. I know of no harm that will be suffered by the First Respondent herein in the event that the interim relief as sought in the Notice of Motion is granted as this application is aimed at ensuring that there is no disruption of the provision of services by the Applicant which are aimed at enhancing quality education to learners across the Province of the Eastern Cape.

(iv) **Absence of a satisfactory alternative relief:**

60. As aforementioned, the strike action has resulted in operations across many District Offices, Circuit Management Centres and Circuit Offices across the Province coming to a complete standstill. This is causing major disruptions in the Applicant's programme in ensuring that the standard of education in this Province is improved.

61. From what is set out hereinabove, especially in the reports from the various District Directors across the Province, it is demonstrably clear that employees of the Applicant at the said offices were vulnerable to being attacked by members of the First Respondent and/or their supporters who are partaking in the violent strike action and such risk of injury remains a very real possibility.

62. There are even incidents where security personnel in some offices of the Applicant were assaulted by the striking workers, which means that security officers are not able to control the violent striking employees or to protect the non-striking employees of the Applicant.

63. It further appears from some of the reports referred to hereinabove from District Directors, especially the one from the Alfred Nzo West District, that, and with respect, members of the South African Police Service did not offer much assistance to the various employees of the Applicant who were chased out of the schools and threatened by the striking members of the First Respondent herein.
64. In the circumstances, I humbly submit that the Applicant has no effective alternative remedy other than to approach this Honourable Court with this application.

**URGENCY:**

65. It is my humble submission that the circumstances of this matter do warrant the urgent consideration of this matter by this Honourable Court in terms of the provisions of Rule 8 of the Rules of this Honourable Court.
66. Furthermore, I humbly submit that, considering that the violent strike action is continuous and that there is no telling as to how long it will last as well as what harm may or may not be suffered by non-striking employees of the Applicant, this matter is one which, with respect, deserves to be heard on an urgent basis.
67. I further submit that the Applicant will not be afforded sufficient redress in due course as there is no telling of what harm may be suffered by employees and officials of the Applicant and/or what damage may be

caused to the property of the Applicant if this application is only enrolled in the normal course.

68. Furthermore, I submit that the Applicant has acted with the necessary alacrity in approaching this Honourable Court with this application in that, having received the reports from the various Districts on 9 March 2023, this matter was escalated to the Legal Services Section of the Department and, in turn, was escalated to the Office of the State Attorney in Gqeberha for them to offer much-needed urgent legal advice.
69. A consultation took place during the morning of Friday, 10 March 2023, with attorneys from the Office of the State Attorney in Gqeberha as well as with counsel, virtually, during which consultation instructions were furnished to the Applicant's legal team with a view to these proceedings to be launched without delay.
70. The legal team commenced with the drafting of these papers and sought further instructions on issues that needed to be clarified during the course of the day on Friday, 10 March 2023.
71. During the said consultation on 10 March 2023, the legal representatives of the Applicant advised officials present in the virtual meeting that it was anticipated that this application would be moved before this Honourable Court as soon as practically possible.

72. In the circumstances, I beg the above Honourable Court to condone the Applicant's non-compliance with the Rules insofar as service and notice periods are concerned and to hear this matter as urgent in terms of Rule 8 of the Rules of this Honourable Court.

**SERVICE:**

73. Given the sheer number of Respondents in this matter and the fact that their identities are not known to the Applicant at the moment, it is my respectful submission that the orthodox methods of service are not possible in this matter.
74. I am advised that, in the past, this Honourable Court has always been willing to authorise service by way of the Sheriff or the South African Police Service by reading the order by megaphone and attaching the Rule *Nisi* to the office noticeboards at the institution in question. When it comes to the First Respondent herein, I confirm that this application will be forwarded by way of email, the proof of which will be handed to this Honourable Court at the hearing of the matter.
75. I, therefore, respectfully propose that a copy of this application will be served upon the First Respondent herein by email on Saturday, 11 March or Sunday, 12 March 2023, with this application, as aforementioned, and with the leave of the above Honourable Court, to be heard as soon as possible.
76. It is, furthermore, my humble submission that, considering the urgency of this matter, the granting of the Rule *Nisi* will not prejudice the Respondents

herein in light of the fact that the main objective of the said Rule *Nisi* will be to ensure that the provision of services by the Applicant to enhance quality education in the Province of the Eastern Cape is not disrupted.

77. Furthermore, any Respondent can always anticipate the return date by giving notice to all affected parties.

**CONCLUSION:**

78. Considering all of the aforesaid, it is my humble submission that a proper case has been made for the relief as sought in the Notice of Motion to be granted.



**MAHLUBANDILE QWASE**

I certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at EAST LONDON on this the 11<sup>th</sup> day of MARCH 2023, the Regulations contained in Government Notice No. R1258 of 21 July 1972, as amended by Government Notices No. R1648 dated 19 August 1977 and No. R1428 dated 11 July 1980, having been complied with.



**COMMISSIONER OF OATHS**

**AYABONGA KOSWANA  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY  
OFFICE No. 1 FIRST FLOOR  
GLOBAL HOUSE BUILDING  
3 PEARCE STREET, BEREA, 5241**



# NEHAWU

National Education Health & Allied Workers Union

## OFFICE OF THE SECRETARIAT

E-Mail: [SecretariatPA@nehawu.org.za](mailto:SecretariatPA@nehawu.org.za)

NEHAWU House  
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3<sup>rd</sup> Floor, Forum iv  
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Johannesburg, 2000

Tel: (011) 833-2902  
Fax: (011) 833-0757  
Website: [www.nehawu.org.za](http://www.nehawu.org.za)

**To** : Department of Public Services and Administration

**Att.** : Director General: Mme Yoliswa Makhasi

**Cc** : General Secretary of the PSCBC: Mr Frikie De Bruin

**Date** : 23 February 2022

**Ref** : OSEC230224 - Notice for a Strike Action as Per Section 64 (1) (D) of the LRA

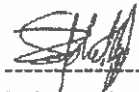
**Pages** : 02 (including this one) Measures

**Subject: NOTICE FOR A STRIKE ACTION AS PER SECTION 64 (1)(D) OF THE LRA**

1. This letter serves as a seven (7) days' notice which to notify your office, all Director Generals and Heads of Departments across all departments and provinces (including SASSA, SIU and SANBI, for a strike action.
2. This comes after the failed wage negotiations for 2022/2023 which resulted in the Commissioner at the PSCBC issuing a certificate of none resolved on the 01<sup>st</sup> November 2022. Please find attached the certificate and the picketing rules as concluded in the Council.
3. Our strike action will commence on the 06<sup>th</sup> March 2023 in all the workplaces in the public service including those of SASSA, SIU and SANBI. The issues that have resulted to this strike action includes but not limited the following:
  - Refusal by the employer to accede to the 10% increment
  - Refusal to grant workers R2 500 increase for housing allowance
  - Refusal to review PSCBC Resolution 7 of 2015: Clause 4.5.6.5.3 which we proposed that it be amended to say those who resign or dismissed shall be entitled to receive their accumulated savings.
  - That pay progression to be introduced beyond last notch.
4. Our members throughout the country will begin the strike action at 06H00 am on the 06<sup>th</sup> March 2023 and the strike will continue up until all our demands are met.

5. Our members as usual will conduct themselves in a peaceful manner and in line with the picketing rules as concluded in the council. This has been the approach by our members in all the previous strike action that we have had in the sector.
6. We request that the letter be sent to all Director Generals and Heads of Departments including the CEO of SANBI, SIU and SASSA as these institutions are also affected by the austerity measures and the pathetic 3% increment.
7. For any clarities please contact our Head of Organising Cde. Casper Nanto at 082 455 2096 or by email at [casper@nehawu.org.za](mailto:casper@nehawu.org.za).

Yours Comradely,



-----2023/02/23  
Zola Saphetha  
General Secretary



**IN THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG**

CASE NO: 3281/23

Honourable Justice Tlhotlhemaje **ORDERED** on 4 March 2023

In the matter between:

**MINISTER FOR THE PUBLIC SERVICE AND ADMINISTRATION** 1<sup>st</sup> Applicant

**THE DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION** 2<sup>nd</sup> Applicant

and

**NATIONAL EDUCATION, HEALTH AND ALLIED WORKERS UNION** 1<sup>st</sup> Respondent

**MINISTER OF FINANCE** 2<sup>nd</sup> Respondent

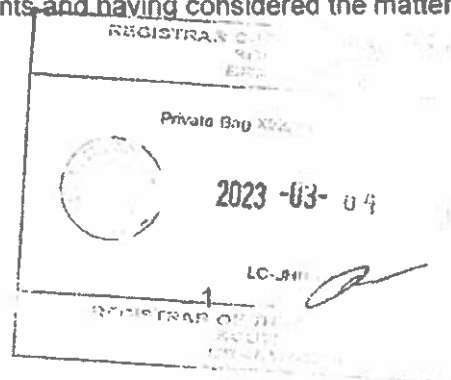
**NATIONAL TREASURY** 3<sup>rd</sup> Respondent

**PUBLIC SERVICE COORDINATING BARGAINING COUNCIL** 4<sup>th</sup> Respondent

**ORDER**

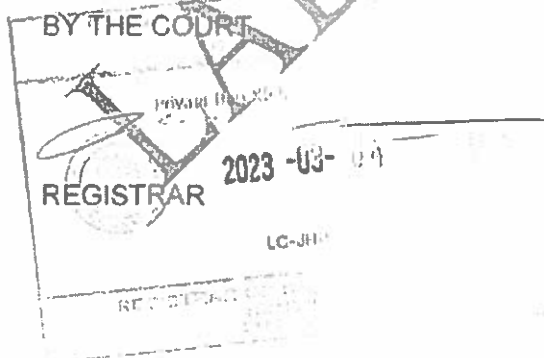
Having read the documents and having considered the matter:

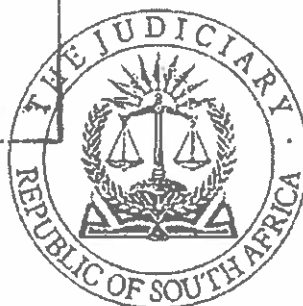
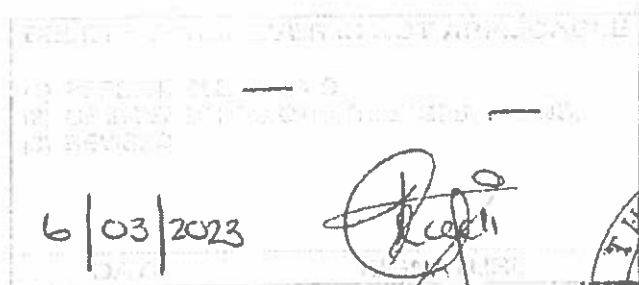
**IT IS ORDERED THAT:**





1. The Rules of Labour Court relating to time and manner of service are dispensed with and the matter is dealt with as one of urgency.
2. The strike notice dated 23 February 2023 issued by NEHAWU, received by DPSA on 24 February 2023, is set aside.
3. The strike action, picket, or any other form of industrial action that is planned by NEHAWU to commence at 06h00 on Monday 6 March 2023, is interdicted.
4. NEHAWU and its members employed by the second applicant are interdicted and restrained from commencing with or participating in a strike or strike action.
5. NEHAWU is ordered to inform its members and officials and all persons to whom it had given notice of the strike, of the order of this court, by whatever legal means are available to it, by no later than 18:00 on Sunday 5 March 2023.
6. There is no order as to costs.





**THE LABOUR COURT OF SOUTH AFRICA, JOHANNESBURG**

**Not Reportable**  
**Case No: J 281/23**

In the matter between:

**MINISTER FOR THE OF PUBLIC  
SERVICE AND ADMINISTRATION**

First Applicant

**DEPARTMENT OF PUBLIC SERVICE  
AND ADMINISTRATION**

Second Applicant

and

**NATIONAL EDUCATION, HEALTH AND  
ALLIED WORKERS UNION**

First Respondent

**MINISTER OF FINANCE**

Second Respondent

**DEPARTMENT OF NATIONAL TREASURY**

Third Respondent

**PUBLIC SERVICE COORDINATING BARGAINING  
COUNCIL (PSCBC)**

Fourth Respondent

**Heard: 06 March 2023**

**Delivered: 06 March 2023**

(This judgment was handed down electronically by circulation to the parties' legal representatives, by email, publication on the Labour Court's website and

released to SAFLI. The date on which the judgment is delivered is deemed to be 06 March 2023.)

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## JUDGMENT

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**VAN NIEKERK, J**

- [1] The applicants seek an order in terms of section 18 of the Superior Courts Act, granting them leave to execute the order granted by my colleague Tlhothlalemaje J on Saturday 4 March 2023. In terms of the order, a strike notice issued by the first respondent (the union) was set aside and a strike scheduled to commence on the morning of 6 March 2023 interdicted.
- [2] The union served an application for leave to appeal at 15h30 on Sunday 5 March 2023. When the present proceedings commenced at 9h00 on Monday, 6 March 2023, the application for leave to appeal had not yet been filed with the registrar. In the answering affidavit, the union takes the point that the present application is premature, since at the time it was filed, no application for leave to appeal had yet been lodged with the registrar. This averment stands in stark contrast to a document issued by the union after it had filed the application for leave to appeal, stating that the order setting aside the strike notice and interdicting the strike will automatically be suspended pending the outcome of the application for leave to appeal. The notice goes on to state *'We therefore confirm the strike continues as planned on the 06 March 2023.'* When Mr Scholtz, who appeared for the union, was pressed on the contradiction between the notice and the preliminary point to the effect that no application for leave to appeal had been filed, the point was abandoned and a copy of the application for leave to appeal, bearing a court stamp dated 6 March 2023, was handed up. At the time of hearing, no reasons for the order granted on 4 March 2023 had been given; Tlhothlalemaje J had undertaken to file reasons during the course of 6 March 2023.
- [3] Section 18 regulates the suspension of decisions pending appeal. In general terms, the operation and execution of a decision (other than a decision not having the effect of a final judgment) is suspended pending the outcome of an

application for leave to appeal or of an appeal (see s 18(1)). The court may order otherwise in exceptional circumstances (see s 18(3)), if it is established on a balance of probabilities that the applicant will suffer irreparable harm if the court does not so order, and that the other party will not suffer irreparable harm if the court so orders. (See *Incubeta Holdings (Pty) Ltd & another v Ellis & another* 2014 (3) SA 189 (GJ).) If the court orders that the operation or execution of an order is not suspended, the court must record its reasons for doing so.

- [4] Section 18(3) places a substantial onus on the applicant (see DE van Loggerenberg and E Bertelsmann *Erasmus: Superior Court Practice* (2 ed vol 1 issue 2). In *Swart & another v Cash Crusaders Southern Africa (Pty) Ltd* 2018 (6) 287 (GP), the Full Bench said the following, at paragraph 4 of the judgment:

Sections 18 (1) and (3) of the Superior Courts Act, provide for a twofold enquiry, in that the following requirements must be met before an order appealed against can be put into operation pending the outcome of the appeal:

1. Exceptional circumstances must exist;
2. Proof, on a balance of probabilities must exist, that:
  - 2.1 The particular applicant will suffer irreparable harm if the order is not put into operation;
  - 2.2 The other party will not suffer irreparable harm if the order is put into operation.

(See: *Actom (Pty) Ltd v Coetzee and Another* ZAGPPHC 548 (31 July 2015), a judgment by the Full Court, agreeing with the judgment of Sutherland J in *Incubeta Holdings (Pty) Ltd (supra)*.

- [5] Both judgments make it clear that section 18 of the Act has introduced a new dimension to these types of proceedings by requiring first that the discretion may be exercised only if the conditions precedent of 'exceptional circumstances', and actual irreparable harm to one party, and no harm to the other, are proven. It is thus incumbent on an applicant seeking leave to execute pending the determination of an application for leave to appeal, to establish that

exceptional circumstances exist, and to prove on a balance of probabilities that it will suffer irreparable harm if leave to execute is not granted, and that the other party will not suffer irreparable harm if the court so orders. Once these jurisdictional facts are established, the court may exercise its wide discretion to grant leave to execute, or not to grant leave.

- [6] In the present instance, the applicant avers that there are exceptional circumstances present, that there is a likelihood of irreparable harm to government and that the union and its members are not likely to suffer irreparable harm. The applicant avers further that the strike will affect all public services, including education, health, police, home affairs, social development, and correctional services. Further, the applicant submits that the appeal has no prospects of success given that the collective agreement that the union seeks to compel the applicant to conclude would be contrary to regulate the measures in the form of Public Service Regulations; and that the strike would serve no sensible or lawful purpose given that the current financial year expires on 31 March 2023 and that the union seeks to cripple the public sector and the provision of public services to force the applicant to afford them increases in the current financial year in circumstances where no allocation of public funds has been made and where negotiations for the next financial year have already commenced. In relation to the harm that will be suffered by those employees who choose not to strike, the applicant expresses its concern that access to buildings will be impeded. Indeed, in the replying affidavit, the applicant records that the union commenced a strike on the night of 5 March 2023, barricading entrances to the department's premises, preventing security officers from entering the premises, and also reports of burning tires, barricades and faeces at the entrance to the Department of Education in Kimberley and the Leratong Hospital in the West Rand.

- [7] 'Exceptional circumstances' may often be difficult to articulate, and their existence or otherwise is primarily a factual enquiry. As the court observed in *Rand Water Soc Ltd v SAMWU obo members and Others* (2021) 42 ILJ 1753 (LC), in a matter where the court has already considered the basis of a strike and declared the strike to be unprotected, if interim enforcement is not granted the respondents will be allowed to engage in unprotected strike, the applicant

would have no remedy. Put another way, the court considered that where the respondent's intent to engage in a strike in direct defiance of an order interdicting the strike, this patently raises exceptional circumstances that warrant interim enforcement. At paragraph 13 of the judgment, the court said the following:

[13] It is further apparent that failure to grant the interim enforcement would undermine the credibility understanding of the court order and would send a message that approaching this court for interdicting unprotected strikes is of no consequence given that the application for leave to appeal can be used as a tool to allow workers and trade unions to participate in unprotected strike action all the while avoiding the consequences of contempt proceedings or possibly dismissal, given that at the time of the strike the order declaring the strike unprotected, was suspended.

[8] In the present instance, the union statement issued after service of the application for leave to appeal indicates in no uncertain terms that this is precisely the union's intention.

[9] In relation to irreparable harm, the case made by the applicant that it will suffer irreparable harm should the order not be granted, as will members of the public who seek to access a variety of public services, is not seriously disputed. On the other hand, the only harm that the union contends it will suffer relates to the costs of the strike. The union does not elaborate on this issue, nor is there any attempt to quantify this 'substantive expenditure'. It is difficult to imagine, where the union's pleaded loss is an unquantified sum of money occasioned by what may amount to a postponement of any strike, how it can be said that the union will suffer irreparable harm if the court grants the order sought.

[10] In summary, I am satisfied that the jurisdictional requirements established by section 18 have been established, and that the applicant is entitled to the order that it seeks.

[11] In relation to costs, the court has a broad discretion in terms of section 162 of the LRA to make orders for costs according to the requirements of the law and fairness. In a dispute between collective bargaining partners, however fraught

their relationship might be, this court is ordinarily reluctant to make an order for costs on account of the potential prejudice to that relationship. In the present case falls within that category and the requirements of the law and fairness are best served by each party bearing its own costs.

I make the following order:

1. The applicant is granted leave to execute the order issued by Tjhotlilemaje J on 4 March 2023.



André van Niekerk  
Judge of the Labour Court of South Africa

Appearances:

For the applicant: Adv T Bruinders SC

Instructed by: CN Phukubje Inc. Attorneys

For the respondent: WP Scholtz, Scholtz Attorneys



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**ALFRED NZO WEST – OFFICE OF THE DISTRICT DIRECTOR**

**CNR OF INKOSI SENYUKELE JOJO AND NTSIZWA \* MT. AYLIF \* 4735 \* 039 254 0098 \* REPUBLIC OF SOUTH AFRICA \* Enquiries: Mr G.M.MBANGENI \* Cell: 0768184916\***

**Email: [Monwabisi.mbangeni@ecdoe.gov.za](mailto:Monwabisi.mbangeni@ecdoe.gov.za) \* Date: 09-02-2023**

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Sir/Madam

**RE: REPORT ON THE DISRUPTION OF SCHOOLING ACTIVITIES  
AT MOUNT AYLIF FULL SERVICE SCHOOLS, MOUNT AYLIF  
HOSPITAL PRIMARY SCHOOL, MOUNT AYLIF TECHNICAL  
HIGH SCHOOL AND SAKHISIZWE PRIMARY SCHOOL BY  
NEHAWU MEMBERS ON 8<sup>th</sup> and 9<sup>th</sup> of MARCH 2023**

The above matter bears reference

At about 12h00 on the 8<sup>th</sup> March 2023, a group of NEHAWU members approached the following schools: Mount Ayliff Technical School, Mount Ayliff Hospital Junior Secondary School, Sakhisizwe Primary School and Mount Ayliff Full-Service School and demanded that all the educators, support staff members to move out of the school premises as they were on strike. Learners were left with principals of the schools until the schools knocked-off at 15h00. It was also reported that at Sakhisizwe Primary School and Mount Ayliff Technical High School they got inside school premises whilst others went inside classrooms carrying sticks, placards intimidating young learners and chasing away teachers out of the school premises calling them cowards.

On the 09/03/2023 the protesters went to the same schools at about 10h00, they were so violent than the previous day claiming that their demand to close schools and suspension of schooling activities had not been complied to, instead schools continued with their day to day activities. Teachers were again instructed not to come to work /school on the 10/03/2023.





and they would not tolerate the non-compliance and they will suffer the consequences of their failure to comply.

Principals of the above schools further wanted to know whether to heed to protesters' instructions to suspend classes or to continue coming to work as the police officials were on a lookout when protesters came to their workplaces and no assistance was provided.

It must be clear that all officials of the department were not allowed access to offices, even those who are not NEHAWU members they were blocked by the gates and ended up working in schools that were not disturbed. Teaching and learning had been grossly undermined and compromised in the Mount Ayliff town schools indicated above.

Thank you

MR M.G MBANGENI  
DISTRICT DIRECTOR – ALFRED NZO WEST

10 March 2023

DATE



Amathole East Education District Mission Location Butterworth Eastern Cape Private Bag X 1319  
Butterworth 4960 REPUBLIC OF SOUTH AFRICA. Enquiries M. Tolom-Nquma: 27 (0)474017742 Cell  
0721971027-0783703367 Email [mavistolom@ecdoe.gov.za](mailto:mavistolom@ecdoe.gov.za) [maytolom@yahoo.com](mailto:maytolom@yahoo.com) 28/12/2023

**TO : DDG CORPORATE SERVICES**  
**: CLUSTER CHIEF DIRECTOR**

**FROM : DISTRICT DIRECTOR AMATHOLE EAST**

**SUBJECT : STRIKE INCIDENT REPORT**

**MONDAY 06/03/2023**

1. Workers arrived at work and signed attendance registers (normal attendance register)
2. A number of NEHAWU members and /or supporters held a meeting, thereafter they marched along the corridors and around the precincts of the district.
3. Management requested a meeting with the leadership to get sense of what unfolded on the day in question and also to find one another on picketing rules but all in vain.

**Tuesday 07/03/2023**

1. A number of NEHAWU members and/or supporters reported at workstations, and converge in the boardroom thereafter marched along the corridors and in the precincts of the District Offices and CMC'S

**Wednesday 08/03/2023**

1. A number of NEHAWU members and/or supporter embarked on the same action of previous days, they also entered some offices, singing inside offices.
2. At Dutywa CMC a the main gated was closed, only a small gate was opened, but visitors and other workers were able to get access through a through a small gate.

**Thursday 09/03/2023**

1. A number of NEHAWU members and/or supporter embarked on the same action of previous days, they also entered some offices, singing inside offices.
2. Workshops were disrupted, participants of workshops and workers in some offices were compelled to get out.



M.TOLOM

DISTICT DIRECTOR



**OR TAMBO COASTAL DISTRICT (ORTCD):**

**OFFICE**

**OF**

**THE**

**DISTRICT**

**DIRECTOR**

K D Mathanzima Building Owen Street Mthatha 5100, P.O. Box 218, LIBODE 5160, REPUBLIC OF SOUTH AFRICA

Enquiries: Mr K S Dalasile Tel: 047 5310605/074 422 4171. Email: khwezi.dalasile@ecdoe.gov.za

Website: www.ecdoe.gov.za

**TO : ACTING HEAD OF DEPARTMENT**

**FROM : ACTING DISTRICT DIRECTOR-O.R. TAMBO COASTAL DISTRICT**

**DATE : 09 MARCH 2023**

**SUBJECT : REPORT ON INCIDENTS OF INTIMIDATION AND VIOLENCE DURING THE STRIKE ACTION BY NEHAWU**

The current strike action by NEHAWU has severely hampered service delivery in the OR Tambo District. It has been generally characterised by intimidation and harassment, with employees being forcefully prevented from accessing their work places or being chased out of their offices by mobs chanting and singing.

The specific acts of violence and intimidation at OR Tambo Coastal District are as follows:

1. On the 06 March 2023, at on or about 9am, a group of singing people wearing NEHAWU T-shirts and carrying placards, entered K.D. Matanzima Building, in Mthatha, where some of our offices are located. They banged on the doors, ordering everyone out. They entered one office where they caused damage to computers and scattered documents on the floor. Fortunately no one was assaulted, and many employees had managed to escape.
2. From the 06 -09 March 2023, the same singing group of people, carrying sjamboks and iron rods, have been at the gates of KD Matanzima Building, preventing employees from entering the building, shouting at, and harassing any person trying to gain entry into the building.
3. At Lusikisiki College of Education, on the 06/03/2023, a similar group of people, singing and wearing NEHAWU T-shirts and carrying placards, gained entry into one block of offices and instructed employees of the Department to leave.
4. On the 09 March 2023, two big padlocks were put on the gate, preventing any employee from gaining entrance into the premises where our offices are located.

As stated previously, services in our offices have come to a halt. The safety of the department employees, clients and property have been put at risk by these acts of violence and intimidation.

  
**Dr. B.B. PEYANA**  
**ACTING DISTRICT DIRECTOR**

  
**DATE**

REPORT ON ACTS OF VIOLENCE-NEHAWU STRIKE ACTION



**OFFICE OF THE DISTRICT DIRECTOR: O.R. TAMBO INLAND**

Corner Owen & Leeds Streets, Mthatha, 5099, Private Bag X5003, Mthatha, 5099 REPUBLIC OF SOUTH AFRICA:  
Enquiries: Ms F. Makrweide. Tel: 047 502 4206 . Fax :047 5313540. Email: [Fundiswa.Makrweide@ecdoe.gov.za](mailto:Fundiswa.Makrweide@ecdoe.gov.za)  
Website: [www.ecdoe.gov.za](http://www.ecdoe.gov.za)

**TO : THE HEAD OF DEPARTMENT**  
**EASTERN CAPE – DEPARTMENT OF EDUCATION**  
**FROM : DISTRICT DIRECTOR: ORTID**  
**SUBJECT : INCIDENT REPORT DURING THE NEHAWU STRIKE PERIOD**  
**DATE : 09 MARCH 2023**

**REPORT ON THE INCIDENTS THAT TOOK PLACE DURING NEHAWU STRIKE ACTION.**

The strike started on Monday the 06 March 2023. As OR Tambo Inland District, the offices are housed at Bota Sgcau Building which is a Department of Public Works building housing different Departments. As of Monday the building was inaccessible as NEHAWU blocked the entrance. As from Monday workers that are not taking part in the strike stand outside and they are daily intimidated by the mob participating in the strike action. Attendance Registers are administered. The Mthatha Central and Mthatha West CMC are also housed in this building and they are equally affected by this situation.

**MQANDULI CMC**

Mqanduli CMC was operational from Monday up to today the 09 March 2023. The strikers chased the workers and they used paper spray on them.

**TSOLO CMC**

This is the CMC that had much damage. NEHAWU entered the premises they trough stones and some windows were broken. They opened the fire extinguishers at the people in offices, they beat up a security guard at the gates. This was reported to the local police and a case was opened.

**QUMBU CMC**

Qumbu CMC operations were normal but there were few individuals who came yesterday (08 March 2023) and demand that NEHAWU workers must join the strike. But today (09 March 2023) operations are back to normal. All CMCs were advised though to be treat the matter with caution,

At District level all office operations are at halt.

**REPORT PREPARED: F. MAKRWEDE (ORTI – DISTRICT DIRECTOR)**



**SARAH BAARTMAN: Office of the DISTRICT DIRECTOR**  
19 Hugh Street, Humansdorp, 6300 Eastern Cape REPUBLIC OF SOUTH AFRICA:

Tel: 042 291 0235 . Cell. 083 575 8702 Email: [nkosinathi.godlo@ecdoe.gov.za](mailto:nkosinathi.godlo@ecdoe.gov.za)

TO : THE HOD  
CC DDG: CORPORATE SERVICES  
CCD: CLUSTER B

FROM : DISTRICT DIRECTOR: SB

SUBJECT: **UPDATE ON NEHAWU STRIKE**

DATE : **09 MARCH 2023**

#### PURPOSE

The purpose of this communication is to give an update on NEHAWU strike actions and its impact on our operations.

1. **Humansdorp CMC:** No strike to date.

2. **Makhanda CMC:**

1. The strike started on Wednesday, 08 March 2023.
2. These were shapewears from other departments. They demanded to see the management.
3. In the meeting they requested that everybody must leave the offices.
4. Other officials who are not affiliated to NEHAWU left for safety purposes.
5. The office was not operational today, 09 March 2023 as officials felt intimidated.
6. The safety of staff remains the main priority of Management.

**Graaff Reinet CMC:**

1. The strike started on Tuesday, some members of NEHAWU joined.
2. The office remained open and operational.
3. On Wednesday 08 March 2023, round about 10:30, about 30 NEHAWU members disrupted operations by going through the building and offices and requesting people to leave.
4. Operations were stopped and staff left.
5. Thursday 09 March 2023, about 50 NEHAWU members came and disrupted operations at about 11:00.
6. The office closed and staff left for safety reasons.



It would appear that the two CMCs , Makhanda and Graaf Reinet would not be operational tomorrow 10 March 2023 as well, except Humansdorp CMC.

HN GODLO: DISTRICT DIRECTOR



**BUFFALO CITY METRO EDUCATION DISTRICT**

**OFFICE OF THE DISTRICT DIRECTOR**

DR WB Rubusana Building, NU 1 Mdantsane, East London, 5200 SOUTH AFRICA

Enquiries: Ms C. Godlo Tel: 043 760 0 542/043 708 6210, Fax :043 7600 545 Email [welekazi.dantile@ecdoe.gov.za](mailto:welekazi.dantile@ecdoe.gov.za)

Website: [www.ecdoe.gov.za](http://www.ecdoe.gov.za)

**TO : A/DDG: CORPORATE SERVICES**

**FROM : DISTRICT DIRECTOR**

**SUBJECT : REPORT ON NEHAWU STRIKE AND ITS DISRUPTIVE  
EFFECT ON SERVICE DELIVERY**

**DATE : 9 MARCH 2023**

The above matter has reference.

The strike by Nehawu had debilitating effects on service delivery. Here below are the turn of events that took place at the office since the inception of the strike.

1. Mobilisation started on the 3/03/2023 with a mass meeting.
2. On the 6/03/2023 the strike ensued. Non striking employees were chased from their offices, doors were banged, and employees had leave for their safety.
3. District Director was attending a meeting with PTT on the 6/03/2023 and was apprised of the action of Nehawu by the Acting District Director.
4. On Tuesday 7/03/2023 Nehawu striking employees gathered at the main entrance.
  - a. District management teams arrived for work.
  - b. After a briefing session, Nehawu started singing revolutionary songs, charged to various offices.
  - c. They came to district Director's office, sang derogatory songs, danced on the table, insisted that the District Director must leave.
  - d. There is a video footage detailing the events of the day.
5. On Wednesday offices were closed and video footage that was in circulation indicated that they went to MMELI and disrupted a Training programme. Some employees danced on the fragile tables.
6. Similar action was reported by CMC Head of the disruption of work in the CMC at KWT.





7. The district secured working space at Baysville, but for fear of destruction to the property a decision was taken by the District Director for officials to work from home and professional services to continue supporting schools.
8. On Friday 10/03/2023 an Accountability session for Underperforming primary schools had to be cancelled for fear of this unbecoming conduct.
9. Since 6/03/2023, it has been difficult to administer strike management forms as all supervisors were denied access to their offices to administer attendance register.

#### Implications of the Strike

- Disruptions of business continuity which will result in unprecedented repercussions to processing of employee benefits.
- Appointment of interns in the Presidential Youth Employment Initiative has been halted which will cause delays in processing their payment, thus resulting in accruals.

Yours in education services

---

**V.N. Mabece**

**District Director**

**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT GQEBERHA**

**CASE NO: P23 / 2023**

In the matter between:

**THE MEMBER OF THE EXECUTIVE COUNCIL**

**FOR THE DEPARTMENT OF EDUCATION,**

**EASTERN CAPE PROVINCE**

**Applicant**

and

**NATIONAL EDUCATION, HEALTH AND ALLIED  
WORKERS UNION**

**First Respondent**

**ALL STRIKING EMPLOYEES OF THE DEPARTMENT  
OF EDUCATION, EASTERN CAPE PROVINCE, AS WELL  
AS ANY OTHER PERSONS ACTING ON BEHALF OF  
OR UNDER THE FIRST RESPONDENT OR IN DIRECT  
OR INDIRECT SUPPORT OF THE ACTIVITIES  
SOUGHT TO BE INTERDICTED**

**Second Respondent**

---

**FILING NOTICE**

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**KINDLY TAKE NOTICE THAT** the Applicant hereby serves and files the answering affidavits of M Mbangeni, B Peyana, M Tolom, N Godlo, VN Mabece and M Mali.

**DATED AT GQEBERHA on this 13th of MARCH 2023.**

**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT GQEBERHA**

**CASE NO: P23 / 2023**

In the matter between:

**THE MEMBER OF THE EXECUTIVE COUNCIL  
FOR THE DEPARTMENT OF EDUCATION,  
EASTERN CAPE PROVINCE**

Applicant

and

**NATIONAL EDUCATION, HEALTH AND ALLIED  
WORKERS UNION**

First Respondent

**ALL STRIKING EMPLOYEES OF THE DEPARTMENT  
OF EDUCATION, EASTERN CAPE PROVINCE, AS WELL  
AS ANY OTHER PERSONS ACTING ON BEHALF OF  
OR UNDER THE FIRST RESPONDENT OR IN DIRECT  
OR INDIRECT SUPPORT OF THE ACTIVITIES  
SOUGHT TO BE INTERDICTED**

Second Respondent

---

**CONFIRMATORY AFFIDAVIT**

---

I, the undersigned,

**MONWABISI MBANGENI**

do hereby make oath and state:

G. M

1. I am the District Director of the Applicant, for the Alfred Nzo West District with offices at the Corner of INkosi Senyukele Jojo and Ntsizwa, Mount Ayliff.
2. The facts I depose to hereunder all fall within my personal knowledge and are, to the best of my belief, both true and correct, unless the context indicates otherwise.
3. I have read the founding affidavit by the Acting Head of Department of Education, Eastern Cape Province, Mr Mahlubandile Qwase, and confirm the contents thereof insofar as it relates to myself.
4. In particular, I confirm the contents of the said founding affidavit insofar as it refers to a report on incidents of violence, intimidation and/or threats that occurred within my District between 6 and 9 March 2023 and as recorded in my correspondence to the Acting Head of Department dated 10 March 2023 (Annexure "MQ4" to the founding affidavit).



DEPONENT

I certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at  
*MATATIELLE* on this the *12* day of MARCH 2023, the Regulations contained in Government Notice No. R1258 of 21 July 1972, as amended by Government Notices No. R1648 dated 19 August 1977 and No. R1428 dated 11 July 1980, having been complied with.

*G. M*

T. 14th CT

COMMUNITY SERVICE CENTRE

2023-03-12

MATATIELE

EASTERN CAPE

**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT GQEBERHA**

**CASE NO: P23 / 2023**

In the matter between

**THE MEMBER OF THE EXECUTIVE COUNCIL  
FOR THE DEPARTMENT OF EDUCATION,  
EASTERN CAPE PROVINCE**

Applicant

and

**NATIONAL EDUCATION, HEALTH AND ALLIED  
WORKERS UNION**

First Respondent

**ALL STRIKING EMPLOYEES OF THE DEPARTMENT  
OF EDUCATION, EASTERN CAPE PROVINCE, AS WELL  
AS ANY OTHER PERSONS ACTING ON BEHALF OF  
OR UNDER THE FIRST RESPONDENT OR IN DIRECT  
OR INDIRECT SUPPORT OF THE ACTIVITIES  
SOUGHT TO BE INTERDICTED**

Second Respondent

---

**CONFIRMATORY AFFIDAVIT**

---

I, the undersigned,

**DR BONGIE PEYANA**

do hereby make oath and state


BB

- 1 I am the District Director of the Applicant, for the O R Tambo Coastal District with offices at the K D Matanzima Building, Owen Street, Mthatha.
- 2 The facts I depose to hereunder all fall within my personal knowledge and are, to the best of my belief, both true and correct, unless the context indicates otherwise.
- 3 I have read the founding affidavit by the Acting Head of Department of Education, Eastern Cape Province, Mr Mahlubandile Qwase, and confirm the contents thereof insofar as it relates to myself.
- 4 In particular, I confirm the contents of the said founding affidavit insofar as it refers to a report on incidents of violence, intimidation and/or threats that occurred within my District between 6 and 9 March 2023 and as recorded in my correspondence to the Acting Head of Department dated 9 March 2023 (Annexure MQ6 to the founding affidavit).

  
 DEPONENT

I certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at \_\_\_\_\_ on this the \_\_\_\_\_ day of MARCH 2023, the Regulations contained in Government Notice No. R1258 of 21 July 1972, as amended by Government Notices No. R1648 dated 19 August 1977 and No. R1428 dated 11 July 1980, having been complied with



  
 72531135  
 CST  
 C. Pranton  
 COMMISSIONER OF OATHS



IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT Gqeberha

CASE NO: P23/2023

In the matter between:

THE MEMBER OF THE EXECUTIVE COUNCIL  
FOR THE DEPARTMENT OF EDUCATION  
EASTERN CAPE PROVINCE

AND

NATIONAL EDUCATION, HEALTH AND ALLIED  
WORKERS UNION

First Respondent

ALL STRIKING EMPLOYEES OF THE DEPARTMENT  
OF EDUCATION, EASTERN CAPE PROVINCE, AS WELL  
AS ANY OTHER PERSONS ACTING ON BEHALF OF  
OR UNDER THE FIRST RESPONDENT OR IN DIRECT  
OR INDIRECT SUPPORT OF THE ACTIVITIES  
SOUGHT TO BE INTERDICTED

Second Respondent

---

**CONFIRMATORY AFFIDAVIT**

---

I, the undersigned,

**MAVIS TOLOM**

do hereby make oath and state:



1 I am the District Director of the Applicant for the Amathole East District  
with offices at the Amathole East Education District, Mission Location,  
Butterworth.

2 The facts I depose to hereunder all fall within my personal knowledge and  
are, to the best of my belief, both true and correct, unless the context  
indicates otherwise.

3 I have read the founding affidavit by the Acting Head of Department of  
Education, Eastern Cape Province, Mr Mahlubandile Qwase, and confirm  
the contents thereof insofar as it relates to myself.

4 In particular, I confirm the contents of the said founding affidavit insofar as  
it refers to a report on incidents of violence, intimidation and/or threats that  
occurred within my District between 6 and 9 March 2023 and as recorded  
in my correspondence to the Acting Head of Department dated 10 March  
2023 (Annexure "MQ5" to the founding affidavit).



DEPONENT

I certify that the Deponent has acknowledged that he knows and understands the  
contents of this affidavit which was signed and sworn to before me at  
on this the            day of MARCH 2023, the Regulations contained in Government  
Notice No. R1258 of 21 July 1972, as amended by Government Notices No. R1648  
dated 19 August 1977 and No. R1428 dated 11 July 1980, having been complied  
with.



21/03/2023  
ba 58/50  
COMMISSIONER OF OATHS

**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT GQEBERHA**

**CASE NO: P23 / 2023**

In the matter between:

**THE MEMBER OF THE EXECUTIVE COUNCIL  
FOR THE DEPARTMENT OF EDUCATION,  
EASTERN CAPE PROVINCE**

Applicant

and

**NATIONAL EDUCATION, HEALTH AND ALLIED  
WORKERS UNION**

First Respondent

**ALL STRIKING EMPLOYEES OF THE DEPARTMENT  
OF EDUCATION, EASTERN CAPE PROVINCE, AS WELL  
AS ANY OTHER PERSONS ACTING ON BEHALF OF  
OR UNDER THE FIRST RESPONDENT OR IN DIRECT  
OR INDIRECT SUPPORT OF THE ACTIVITIES  
SOUGHT TO BE INTERDICTED**

Second Respondent

---

**CONFIRMATORY AFFIDAVIT**

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I, the undersigned,

**NKOSINATHI GODLO**

do hereby make oath and state:

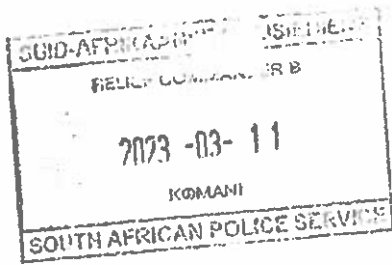


1. I am the District Director of the Applicant, for the Sarah Baartman District with offices at the 19 Hugh Street, Humansdorp.
2. The facts I depose to hereunder all fall within my personal knowledge and are, to the best of my belief, both true and correct, unless the context indicates otherwise.
3. I have read the founding affidavit by the Acting Head of Department of Education, Eastern Cape Province, Mr Mahlubandile Qwase, and confirm the contents thereof insofar as it relates to myself.
4. In particular, I confirm the contents of the said founding affidavit insofar as it refers to a report on incidents of violence, intimidation and/or threats that occurred within my District between 6 and 9 March 2023 and as recorded in my correspondence to the Acting Head of Department dated 9 March 2023 (Annexure "MQ8" to the founding affidavit).

  
**DEPONENT**

I certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at \_\_\_\_\_ on this the \_\_\_\_\_ day of MARCH 2023, the Regulations contained in Government Notice No. R1258 of 21 July 1972, as amended by Government Notices No. R1648 dated 19 August 1977 and No. R1428 dated 11 July 1980, having been complied with.





7249448-4  
Z. M. Z. Sinyang  
 COMMISSIONER OF OATHS

*[Handwritten mark]*

IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT GQEBERHA

CASE NO: P23 / 2023

In the matter between:

THE MEMBER OF THE EXECUTIVE COUNCIL  
FOR THE DEPARTMENT OF EDUCATION,  
EASTERN CAPE PROVINCE

Applicant

and

NATIONAL EDUCATION, HEALTH AND ALLIED  
WORKERS UNION

First Respondent

ALL STRIKING EMPLOYEES OF THE DEPARTMENT  
OF EDUCATION, EASTERN CAPE PROVINCE, AS WELL  
AS ANY OTHER PERSONS ACTING ON BEHALF OF  
OR UNDER THE FIRST RESPONDENT OR IN DIRECT  
OR INDIRECT SUPPORT OF THE ACTIVITIES  
SOUGHT TO BE INTERDICTED

Second Respondent

---

CONFIRMATORY AFFIDAVIT

---

I, the undersigned,

VICTOR NKOSIYABANTU MABECE

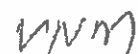
do hereby make oath and state:

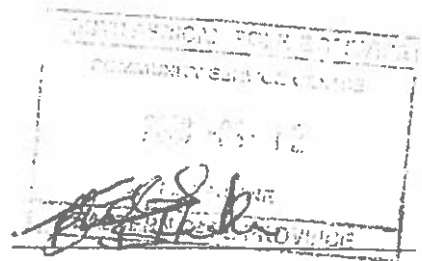
VNM

1. I am the District Director of the Applicant, for the Buffalo City Metro District with offices at the Dr WB Rubusana Building, NU1, Mdantsane, East London.
2. The facts I depose to hereunder all fall within my personal knowledge and are, to the best of my belief, both true and correct, unless the context indicates otherwise.
3. I have read the founding affidavit by the Acting Head of Department of Education, Eastern Cape Province, Mr Mahlubandile Qwase, and confirm the contents thereof insofar as it relates to myself.
4. In particular, I confirm the contents of the said founding affidavit insofar as it refers to a report on incidents of violence, intimidation and/or threats that occurred within my District between 6 and 9 March 2023 and as recorded in my correspondence to the Acting Head of Department dated 9 March 2023 (Annexure "MQ9" to the founding affidavit).

  
 \_\_\_\_\_  
 DEPONENT

I certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at \_\_\_\_\_ on this the \_\_\_\_\_ day of MARCH 2023, the Regulations contained in Government Notice No. R1258 of 21 July 1972, as amended by Government Notices No. R1648 dated 19 August 1977 and No. R1428 dated 11 July 1980, having been complied with.





COMMISSIONER OF OATHS

*B. J. Stuker*

*W/M*



**IN THE LABOUR COURT OF SOUTH AFRICA  
HELD AT GQEBERHA**

**CASE NO: P23 / 2023**

In the matter between:

**THE MEMBER OF THE EXECUTIVE COUNCIL  
FOR THE DEPARTMENT OF EDUCATION,  
EASTERN CAPE PROVINCE**

Applicant

and

**NATIONAL EDUCATION, HEALTH AND ALLIED  
WORKERS UNION**

First Respondent

**ALL STRIKING EMPLOYEES OF THE DEPARTMENT  
OF EDUCATION, EASTERN CAPE PROVINCE, AS WELL  
AS ANY OTHER PERSONS ACTING ON BEHALF OF  
OR UNDER THE FIRST RESPONDENT OR IN DIRECT  
OR INDIRECT SUPPORT OF THE ACTIVITIES  
SOUGHT TO BE INTERDICTED**

Second Respondent

---

**CONFIRMATORY AFFIDAVIT**

---

I, the undersigned,

**NOMATHAMSANQA MALI**

do hereby make oath and state:

1

DA NM

1. I am employed by the Applicant as the Deputy Director Human Resources for the Nelson Mandela Bay District with offices at 5 Sutton Road, Sidwell, Gqeberha.
2. The facts I depose to hereunder all fall within my personal knowledge and are, to the best of my belief, both true and correct, unless the context indicates otherwise.
3. I have read the founding affidavit by the Acting Head of Department of Education, Eastern Cape Province, Mr Mahlubandile Qwase, and confirm the contents thereof insofar as it relates to myself.
4. In particular, I confirm the contents of the said founding affidavit insofar as it refers to an incident that took place at the offices of the Applicant in Gqeberha, during which I was assaulted by members of the First Respondent herein, that I sustained injuries and that I opened criminal charges with the South African Police Services with regards to such an incident.



DEPONENT



I certify that the Deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at GQEBERHA on this the 13 day of MARCH 2023, the Regulations contained in Government Notice No. R1258 of 21 July 1972, as amended by Government Notices No. R1648 dated 19 August 1977 and No. R1428 dated 11 July 1980, having been complied with.



COMMISSIONER OF OATHS

.....  
**DEMAINE D FELIX**  
COMMISSIONER OF OATHS  
182-184 STANDFORD ROAD, KORSTEN, 6014.  
PO BOX 3382, NORTH END, GQEBERHA, 6058.  
TEL: 041 453 3298 / 041 453 3858. FAX: 041 453 3284  
ATTORNEY-AT-LAW

NM